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MINING LAW IN BRITISH COLUMBIA, MEXICO, AND THE UNITED STATES.

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AS Mr. Hammond remarks in the preceding article, the rapidity of development, and consequently the life, of a mining district must be dependent to a great extent upon the mining laws. Mr. Hammond indicates briefly the tenor of the present and former statutes thus affecting mining on the Rand.

The following brief summary* of mining legislation affords a basis for comparison in judging of the spirit of the laws of the South African republic, and estimating their relative effect.

The United States. The federal law relating to mines applies only to public land in certain States and territories, and concerns only the terms upon which mineral land may be occupied and purchased. Although extremely vague, difficult of construction in many cases, and productive of much uncertainty and litigation between conflicting claimants of title, it is very liberal towards explorers and locators, and, with all its faults, has undoubtedly stimulated an intense activity in prospecting and a consequently rapid, if somewhat wasteful and speculative, development of the mineral resources of the Rocky mountains and the Pacific coast. It is impossible to give here more than a bare outline of the main features of the system, as finally established in 1872.

All mineral deposits in public lands of the United States are free and open to exploration and purchase, by citizens and those who have declared their intention to become such. The discoverer of a mineral deposit (or the re-locator of an abandoned one) stakes out a claim, and records his location thereof, on payment of a trifling fee. (Special privileges are granted to discoverers of veins by tunnels.) Lode-claims (containing veins or lodes of quartz or other rock in place, bearing valuable mineral) cannot exceed 1,500 feet in length, or 300 feet in width on each side of the vein at the surface, or be restricted to less than 25 feet on each side the vein, unless pre-existing rights make this necessary. Placer-claims (containing any other form of deposit except "lodes") are limited to 20 acres for individuals and 160 for associations. Lode locators enjoy possession of the surface, and the ownership, to any depth, of all veins the apexes (upper

* The publishers, at Mr. Hammond's suggestion, have obtained from Dr. Rossiter W. Raymond, secretary of the American Institute of Mining Engineers, the accompanying abstract of the mining laws of the United States, Mexico, and British Columbia. Dr. Raymond desires it to be understood that, by reason of the limited space available, his summary is necessarily far from comprehensive.

edges) of which lie vertically under it, though the veins thus owned pass downward into adjoining lands. This so-called extra-lateral right is attended with a corresponding deduction from the title of the locator,—that is to say, the ownership of veins entering his land is vested in the owners of the locations which contain their apexes. Moreover, the extra-lateral right is dependent upon certain conditions in the location. This must have parallel end-lines, vertical planes through which are the boundaries of the said right. Until a locator has proceeded to purchase outright, he holds his claim by possessory title, subject to the fulfillment of local regulations. In this respect, the federal law makes but one regulation—that the amount of work annually done on each claim shall be not less in value than \$100. Failure to observe these conditions forfeits the claim without any official notice, leaving the land open to occupation and re-location.

A complete title is obtained by application for a United States mineral land patent, survey by a government surveyor, advertisement of the application for 90 days, proof of the expenditure of not less than \$500 in labor or improvements on the claim, and payment of \$5 per acre and fees. If no adverse claim is filed during the period of advertisement, a patent issues upon the fulfillment of the other conditions named. The patent confirms, and renders independent of annual "assessment-work," the rights and privileges previously held under possessory title by the locator. In case of an adverse claim, the proceedings of the United States land office are suspended, until the adverse claim has been adjudicated by a court; a suit for that purpose must to be brought by the adverse claimant within 30 days.

No limit is set to the number of locations which may be held by one owner, and there is no restriction upon the transfer of possessory titles, or interests therein. Indeed, the mere fact of location withdraws the land from the public domain, and the holder of a patent is a private owner of real estate in fee, and, as such, can do what he likes with his property. Provision is also made for the location and purchase of mill-sites.

The price for placer-claims is \$2.50 per acre. Coal-lands and salines are sold like agricultural lands, but at special prices.

It will be seen that the law grants the utmost freedom to explorers and miners, and that (apart from the trifling price per acre of claims patented) the government does not attempt to derive from its mineral lands any revenue. Mining is placed in this respect on the same footing as all other industries.

Mexico. The famous ordinances decreed in 1783 by the king of Spain are said to have been in some respects a codification of Aztec mining customs. After the establishment of Mexican independence,

mining legislation was left largely to the several States, with much confusion as the result. In 1883 the States adopted an amendment to the constitution, authorizing the federal government to regulate mining for the whole republic. The mining code of 1884, framed under this authority, was an advance upon the previous condition of mining law in Mexico; but it was cumbered with minute details, harassing and discouraging to investors and adventurers. A more liberal statute came into operation July 1, 1892, and is now in force. Under this statute mines of gold, silver, platinum, mercury, iron, lead, copper, tin, zinc, antimony, nickel, cobalt, manganese, bismuth and arsenic, precious stones, rock-salt, and sulphur are granted by concession. Mineral fuel, mineral oils and waters, building materials, sand, clay, etc., and substances not included in the concessionary list, are the property of the owner of the soil, and may be worked freely without any concession. Mine-workings of both classes, however, are subject to State inspection and regulation. Any inhabitant of the republic may hold mining property. There is no distinction against aliens. Mining titles under concessions are perpetual and irrevocable, so long as the federal tax is paid. Such titles may be freely assigned and transferred, provided due report and registry of the change of ownership be made.

The unit of concession is always a vertical prism of indefinite depth, having for its external base a surface-square 100 meters on each side. This unit is indivisible. In cases where, between new concessions and older ones, space is left smaller than one unit, that space is also granted to the first applicant. In the granting of concessions, the explorer and discoverer of a new mine has preference, if he applies before the actual grant has been made. Otherwise, priority of application governs; and the applicant can have as many units as he is willing to pay for, so far as ungranted ground is available. The concession does not carry surface-ownership. But the mine-owner may occupy any surface land needed for mining. If it be private land, he must agree with the owners as to the terms of his use of it. If such agreement cannot be made, proceedings for legal condemnation are taken. The payments exacted are as follows. The *concessionaire* must pay \$10 per unit (10,000 square meters) of his concession at the time of its issue. This is a stamp-tax, stamps to the required amount being placed on the patent issued to him. He must also pay an annual tax of \$10 per unit, in three equal parts during the year, under penalty of fines and forfeiture. Finally, he must pay (with the exceptions specified below) an annual tax of 2 per cent. on the products of mining, without deduction for expenses. Mines of stone, coal, petroleum, iron, and quicksilver are exempt from this tax.

Metallurgical works and shops may be taxed up to \$6 per \$1,000 upon the value of their real estate and machinery.

On the public land, prospecting by boring, or by excavations not exceeding ten meters in depth, is free to all inhabitants of the republic. On private land the consent of the owner, or else a special executive permission, granted after due hearing, and upon security for damages, is required. The owner alone can authorize prospecting within buildings or their dependencies, and it is not permitted in towns. All mine-workings must conform to the rules made to secure safety and permanency. Otherwise, the owners have entire liberty, being responsible for accidents or damages caused by their neglect.

British Columbia. Like other provinces of Canada, British Columbia has its own mining laws. Omitting here the coal acts of 1888, and the act of 1897 for the inspection of mines to secure the safety and health of workmen, we have the placer mining act of 1891, amended in 1894, 1895, and 1896, and the mineral act of 1896, amended in 1897. According to these statutes, every "free miner"—*i.e.*, person or company holding a free-miner's certificate, which costs \$5 per annum for an individual, \$50 for a company having a nominal capital not exceeding \$100,000, and \$100 for one having larger capital—has the right to enter, locate, prospect, and mine upon any waste lands of the crown for all minerals except coal. In certain cases, where the lands are already lawfully occupied for other purposes (though the rights as to gold and silver have been reserved by the crown), he may be required to give security and pay damages to the prior occupants or owners.

Any free miner may locate a claim, as nearly as practicable, and not exceeding, 1,500 feet long by 1,500 feet wide; the form to be rectangular, unless pre-established boundaries interfere. The claim must be suitably marked with posts, and particulars thereof, together with affidavit of the discovery of mineral in place, must be furnished to the mining recorder for record. The holder of a claim is entitled to all minerals within it, but not to anything outside vertical planes drawn through its boundaries. (From 1884 to 1892 the British Columbia law was a practical copy of that of the United States, and granted claims 1,500 by 600 feet in size, with the attached extra-lateral right. There is still some litigation over the rights thus given to old locations, but the source of such trouble has been wisely closed.) The record entitles the locator to hold the claim for one year, and thereafter from year to year without re-recording, provided he keeps his miner's certificate in force and files proof of \$100 worth of work done in each year, or pays \$100 in lieu thereof, and records the official certificate of such facts. A lapse in respect to either of

these two certificates forfeits all rights, and the claim is deemed vacant and abandoned. The interest of a free miner in his claim is a chattel interest, equivalent to a lease for one year, renewable from year to year, and subject to performance of the conditions of the act.

Any lawful holder of a mineral claim may obtain a crown grant therefor on the following conditions: (*a*) improvements to the value of \$500 on the claim, or a payment of \$500 in lieu thereof; (*b*) proof of the finding of a vein—*i.e.*, a body of valuable mineral-bearing rock in place—within the claim; (*c*) survey by a Provincial surveyor; (*d*) posting and advertisement of notice to apply for a grant after 60 days; (*d, e, f, g, h*) issue, after due filing of papers required, and in the absence of adverse claim within 60 days, of a "certificate of improvements." (Adverse claims suspend these proceedings, and must be pushed promptly and with diligence to judicial determination.) Upon the granting and recording of this certificate, the claim-holder is entitled to a crown grant of the claim on payment of \$5 per acre, provided he applies for the same within three months. The crown grant for a mineral claim carries the mineral right and the use and possession of the surface (including timber) so far as necessary for mining. The other surface-rights are reserved to the crown or to the private owner, but the grantee of the mineral claim may purchase the complete surface-title besides, if the land be unoccupied, for \$5 per acre. Crown grants for mill sites not exceeding 5 acres may be similarly had at \$5 per acre; but these grants reserve the mineral right to the crown. It will be seen that, with regard to crown lands, the law contemplates the mineral right and the soil-ownership as two separate estates, and values each at \$5 per acre, for sale under certain conditions to qualified applicants.

Placer claims are divided into creek claims, bar-diggings, dry diggings, bench-diggings, and hill-diggings. A creek-claim is 100 feet long and 100 feet wide—or more, if the distance across the creek from bench to bench is greater. In bar-diggings a claim is 100 feet long at high-water mark, and in width extends from high-water to low-water. In dry diggings and bench-diggings a claim is 100 feet square; and, in hill-diggings, it has a frontage of 100 feet along the ravine, and extends back to the summit of the hill. Larger claims are allowed to first discoverers. Placer-miners must have free miners' certificates. Claims must be recorded and re-recorded at \$2.50 per annum, and must be worked every season, unless leave of absence is granted.

No direct tax or royalty is levied in British Columbia on the product of the mines, but all miners, whether employers or employed, must keep their miners' certificates in force. These may be paid for by a company, the amount being deducted from wages due.